

# **EXHIBIT P**

# **[PUBLIC VERSION]**

NOMINATION HEARING

- - -

TUESDAY, JANUARY 11, 2022

United States Senate,  
Committee on Banking, Housing, and Urban Affairs,  
Washington, D.C.

The Committee met, pursuant to notice, at 10:00 a.m., via Webex and in Room 106, Dirksen Senate Office Building, Hon. Sherrod Brown, Chairman of the Committee, presiding.

Present: Senators Brown, Reed, Menendez, Tester, Warner, Warren, Van Hollen, Cortez Masto, Smith, Ossoff, Warnock, Toomey, Shelby, Crapo, Scott, Rounds, Tillis, Kennedy, Hagerty, Lummis, Cramer, and Daines.

OPENING STATEMENT OF CHAIRMAN BROWN

Chairman Brown. The Senate Committee on Banking, Housing, and Urban Affairs will come to order.

This hearing will be in the hybrid format, as we have done many times. The witness is in person. The Senators can go either way, and my Senate colleagues will be done by seniority, whether you are here or whether you are remote, at the gavel. So thank you all for joining us.

Yearning for a return to normalcy, millions of American voters elected Joe Biden President of the United States more than a year ago. The American people were exhausted by the divisive rhetoric at neighborhood functions, and church gatherings, and family dinners. They wanted someone who would bring this country together based on our shared values, like the dignity of work. They wanted an economy that works for everyone, not just wealthy elites.

That is what we are delivering.

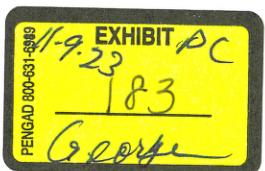
Think of where this country was a year ago. Domestic terrorists breached this building a year and a week ago and assaulting our democracy. Four million more people were out of a job, and the hope of vaccines, for everyone, was just that--a hope.

Today, we have made much progress. We have a President committed to democracy, willing to stand in this breach, as he put it last week. Vaccines and booster shots have dramatically lowered the risk for most people, allowed Americans to go back to work and our children to go back to school, safely.

We added 6.4 million jobs last year--6.4 million jobs--the most since 1939.

The nomination we consider today represents another step in President Biden's efforts to rebuild our economy. And the President is putting results over partisanship, evidenced by the gentleman sitting at the table, renominating a Federal Reserve chair of the other political party.

Jerome Powell has served as Chair of the Federal Reserve since 2018. He joined the Fed in 2012. He served the country before that in a number of different roles, including as Under Secretary for Finance at the Treasury Department during the George H. W. Bush administration.



**Pages Omitted**

Mr. Powell. Yes, I would be glad to. So we have really made a complete change in the way we govern purchases and sales of securities by covered people, which includes all of the policymakers and senior staffers. No one can any longer buy individuals stocks. In addition, if you want to sell something that you--so people will be owning mutual funds, mainly, as I already do. When you want to sell something, it has to be outside of blackout, as always, but you have got to give 45 days' notice, and you make that decision. You have got to clear that trade with that sale with a central body.

We do not really have, because of our federated nature, we do not have a group in the center that applies these rules consistently and clearly across the whole system. We will have that now at the Board of Governors. So you will go and you will say, "I want to sell X amount of this mutual fund." Forty-five days later, that trade will take place, whether things change or not. So there will be no ability to time the market and really no appearance of--the kind of appearance issues that we have had.

The old system was in place for decades on end, and then suddenly it was revealed as insufficient. And so we do take the need to protect our credibility with the public very seriously, and I think our new system is easily the toughest in government and the toughest I have seen anywhere.

Senator Cortez Masto. Thank you, Chairman Powell. Mr. Chairman, thank you.

Chairman Brown. Senator Lummis, from Wyoming, is recognized.

Senator Lummis. Thank you, Mr. Chairman, and congratulations on your nomination. Please throw me a lifeline here and help me support your nomination.

The Fed's website today says that the Federal Reserve will ensure the provision of payment services to all depository institutions on an equitable basis, and to do so in an atmosphere of competitive fairness. But that is not the case at all, Mr. Chairman. The Fed actually uses substantial discretion in providing master accounts to depository institutions, or denies them by delay, simply starving the master account applicant until it dies. And that is true even though every single Federal court that has ever looked at this issue disagrees with the Fed's assertion of substantial discretion.

The Greater Buffalo Press and Jet Courier Services cases in the Second and Sixth Circuits found that the Federal Reserve services were, quote, "available to all banks." The Fourth Corner Credit Union case in the Tenth Circuit from 2017 said the same thing.

The Federal Reserve Act says that a depository institution is any institution eligible for deposit insurance. The FDIC says, in General Counsel Opinion 8867, that an entity is a depository institution if it is creating deposit liabilities out of customer assets and is

characterized by state law as a bank.

As you know, Chairman Powell, I am terribly concerned about the manner in which Wyoming's special purpose depository institutions are being treated by the Federal Reserve. We have discussed this. What is your reaction to this?

Mr. Powell. So as we discussed, there are novel charters, and the SPDIs are one of them, and we want to be really careful because they are hugely precedential. They are very important from a precedential standpoint. And so we have been looking carefully at this, and I would say there are good arguments for viewing SPDIs as depository institutions for this purpose, and we are looking carefully at it. I do think we will make some progress on this, and we can talk about it more offline.

But I think you do understand that we--you know, if we start granting these there will be a couple hundred of them pretty quickly, and we have to think about the broader safety and soundness implications. And, you know, it is just hugely precedential. That is really why we have taken our time with it. And we appreciate you bringing it my attention, and so we can continue to talk about it.

Senator Lummis. Well as you know it has been well over a year, well over a year, and I have been stonewalled for well over a year. My state has been stonewalled for well over a year.

You know, you mentioned in your testimony today that we can begin to see that the post-pandemic economy is likely to be different in some respects. My job is to represent Wyoming's best interests and to ensure the Fed is preparing itself for the post-pandemic economy and to promote responsible innovation, as you mentioned in your statement.

You know, I asked your staff for an update on the SPDI charter last week, and I have yet to receive a response. And as we discussed in December, I believed I would receive a response by today. So my disappointment is profound. My frustration is profound. And for now I will just leave it at that.

But I will say thank you for your dialogue with Senator Kennedy and Senator Hagerty today. I thought those were encouraging dialogues, and once again, Chairman Powell, throw me a lifeline.

I yield back.

Chairman Brown. Thank you, Senator Lummis.

Senator Smith, of Minnesota, is recognized.

Senator Smith. Thank you, Chair Brown and Ranking Member Toomey, and welcome to the Committee again, Chair Powell. As always it was good to talk with you yesterday, and I want to just say, Mr. Chair, that I think that together Chair Powell and Lael Brainard would make a great team at the Fed, and I think you are a strong combination.

So Chair Powell, I would like to ask you about kind of where we are with employment and how this relates to the decisions that the Fed is making. Last week, the Bureau of